

PS3420.09 STANDARDS OF EMPLOYEE CONDUCT



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# Change Notice

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DIRECTIVE AFFECTED: 3420.09  
CHANGE NOTICE NUMBER: 3420.09  
DATE: 2/5/99

1. PURPOSE AND SCOPE. To revise the Standards of Employee Conduct.

2. SUMMARY OF CHANGES. The changes include expanding the time frames for personal use of government property as well as removing some limitations on outside employment.

The change in Attachment A modifies the definition of "reckoning period" to conform with the Department of Justice Order pertaining to disciplinary and adverse actions and added an addition offense (#54), "Failure to report a violation of the Standards of Conduct, or retaliation or discrimination against those who make such a report."

Additionally, the Request for Outside Employment forms have been removed as attachments. These forms may now be located in the forms area of BOPDOCS.

There are also various formatting changes, including conversion to WordPerfect 6.1, which caused some pagination changes. The sections changed are marked by asterisks. These changes can be found on pages 5, 6, 8, 15, 18, and 19.

3. ACTION. All Wardens shall ensure each employee receives and signs for receipt of the revised pages.

File this Change Notice in front of the Program Statement on Standards of Employee Conduct.

/s/  
Kathleen Hawk Sawyer  
Director



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# Program Statement

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OPI: OGC  
NUMBER: 3420.09  
DATE: 2/5/99  
SUBJECT: Standards of Employee  
Conduct

1. PURPOSE AND SCOPE. To provide policies and procedures, herein referred to as the "Standards of Conduct," to complement those issued by the Office of Government Ethics on:

- # employee conduct and responsibility,
- # ethics in matters involving conflicts of interest,
- # post-employment restrictions,
- # procurement integrity issues,
- # attorney ethics, and
- # outside employment.

These standards apply to all employees of the Bureau of Prisons (Bureau), including employees of the Public Health Service and the National Institute of Corrections, and to any person detailed to any of those agencies under the Intergovernmental Personnel Act. Such employees are subject to certain standards and prohibitions -- some statutory, some regulatory, and some a matter of good ethical and moral practice that is essential to the efficiency of the organization. Contractors and volunteers working in Bureau facilities also are expected to conduct themselves by these standards. This policy will not override the Master Agreement.

While issuances from the Office of Government Ethics and the Department of Justice address the basic standards and prohibitions applicable to Bureau employees, this Program Statement more specifically addresses situations that are especially applicable to Bureau employment. It does not and cannot, however, attempt to detail every incident which could violate the Standards of Conduct.

2. PROGRAM OBJECTIVES. The expected results of this program are:

a. Employees will conduct themselves in a manner that creates and maintains respect for the Bureau of Prisons, the Department of Justice, and the U.S. Government.

b. Employees will avoid situations which involve conflicts of interest with their employment.

c. Employees will comply with restrictions on employment outside the Bureau and after employment with the Bureau.

d. Employees will conform with procurement integrity regulations.

e. Employees will uphold the ethical rules governing their professions.

f. Employees will immediately report any violation, or apparent violation, of standards of conduct to their Chief Executive Officer (CEO) or another appropriate authority.

g. Employees who fail to conduct themselves in accordance with these standards will be subject to appropriate sanctions.

### 3. DIRECTIVES AFFECTED

#### a. Directive Rescinded

PS 3420.08      Standards of Employee Conduct and  
Responsibility (3/7/96)

#### b. Directives Referenced

PS 3735.04      Drug Free Workplace Program (6/30/97)  
PS 5510.09      Searching, Detaining, or Arresting Persons  
Other Than Inmates (3/6/98)  
PS 5840.03      Staff Correspondence About Inmates (3/4/93)

18 U.S.C. § 201	Bribery; Illegal Gratuities
18 U.S.C. § 203	Representational Issues
18 U.S.C. § 205	Representational Issues
18 U.S.C. § 207	Post-Employment Statute
18 U.S.C. § 208	Conflict of Interest Statute
18 U.S.C. § 2241-45	Sexual Abuse
41 U.S.C. § 423	Procurement Integrity Act

5 CFR § 2635	Standards of Ethical Conduct for Employees of the Executive Branch (8/7/92)
5 CFR § 2637	Post-Employment (12/30/93)
5 CFR § 2641	Post-Employment (1/28/92)
28 CFR § 50.15	Representation of Federal Employees Sued, Subpoenaed or Charged in Their Individual Capacities (4/9/90)
28 CFR § 500.1	Contraband
Executive Orders 12674 and 12731	Prescribing Standards of Ethical Conduct
DOJ Order 1735.1	Procedures for Complying with Uniform Standards and Other Ethics Requirements (9/17/92)
ABA Model Rule 1.11	Successive Government and Private Employment Rules for Lawyers (2/7/87)
ABA Model Rule 1.6	Confidentiality of Information (8/2/83)

#### 4. STANDARDS REFERENCED

a. American Correctional Association, 3rd Edition, Standards for Adult Correctional Institutions: 3-4048, 3-4067.

b. American Correctional Association, 3rd Edition, Standards for Adult Local Detention Facilities: 3-ALDF-1C-23.

c. American Correctional Association, 2nd Edition, Standards for Administration of Correctional Agencies: 2-CO-1C-04, 2-CO-1C-20, 2-CO-1C-24.

d. American Correctional Association Standards for Adult Correctional Boot Camp Programs: 1-ABC-1A-23.

5. GENERAL REFERENCES. The Standards of Ethical Conduct for Employees of the Executive Branch, found at 5 CFR Part 2635, sets forth ethical standards, statutory provisions, and other matters governing the conduct of federal employees. Various resolutions, messages, memoranda, and Executive Orders are included, as are requirements for informing employees and the authority for regulating their conduct.

6. DEFINITIONS. For the purposes of this Program Statement, the following definitions apply:

a. Chief Executive Officer (CEO). The Warden at institutions, the Director at Staff Training Centers, the Community Corrections Manager at community corrections offices, the Regional Director at the regional offices, and the Assistant Director of each division at the Central Office.

b. Conflict of Interest. A conflict between public interests and the private interests of the individual involved.

c. Criminal Matters. Involvement with a federal, state or local law enforcement agency, or with inmates as defined by this section, or with state and local inmates.

d. During the Conduct of a Procurement. The time between the beginning and end of a procurement. The conduct of a procurement begins on the earliest date an authorized official directs that a specific action be taken to initiate a procurement. These actions include:

- # Drafting a specification or a statement of work;
- # Reviewing and approving a specification;
- # Computing requirements or a purchase request;
- # Preparing or issuing a solicitation;
- # Evaluating bids or proposals;
- # Selecting sources;
- # Conducting negotiations; or
- # Reviewing and approving the award of a contract or contract modification.

The conduct of a procurement ends with the award or modification of a contract or the cancellation of the procurement.

e. Employment. Any form of employment or business relationship, compensated or uncompensated, involving the provision of personal services by the employee, whether to be undertaken at the same time as or subsequent to current federal employment. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee.

f. Inmate. Any person found guilty of committing a felony or misdemeanor and who has been placed in Bureau custody or under supervision of a federal court. This includes individuals participating in home-monitoring programs, parole, probation, halfway house placement, pretrial and non-sentenced inmates,

detainees, and inmates with state sentences under federal supervision.

g. Former Inmate. Any inmate for whom less than one year has elapsed since their release from Bureau custody or supervision of a federal court.

h. Official Investigation. Includes, but is not limited to, investigations conducted by the Federal Bureau of Investigation, Office of the Inspector General, Office of Professional Responsibility, Office of Internal Affairs, Office of Personnel Management, Special Investigative Agent, Special Investigative Supervisor, Equal Employment Opportunity Investigator or any other employee the CEO authorizes or orders to conduct an investigation.

i. Negotiations. Discussion or communication with another person, or such person's agent or intermediary, mutually conducted with a view toward reaching an agreement regarding possible employment with that person.

j. Participate. To take action as an employee through decision, approval, disapproval, recommendation, rendering of advice, or investigation.

k. Particular Matter. Matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. The particular matters covered by this subpart include a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, or arrest.

l. Procurement Official. Any officer or employee of an agency who has participated personally and substantially in any of the activities involved "during the conduct of a procurement." This definition includes acting as a procuring contracting officer, the source selection authority, a member of the source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement in which that contractor was selected for award of a contract in excess of \$10,000,000.

This definition also includes serving as a program manager, deputy program manager, or administrative contracting officer, and extends to officials who personally make the decision to award a contract, task order, or delivery order, establish overhead or other rates, approve the issuance of contract

payments, or decide to pay or settle a claim, in excess of \$10,000,000. (See definition "during the conduct of a procurement.")

## 7. PUBLICATION AND INTERPRETATION

a. The CEO of each facility has the primary responsibility for ensuring that the Standards of Employee Conduct are provided and made known to each employee, contractor and volunteer.

b. Only actions made in reliance on advice received from the Ethics Officer, or his or her designees, may be protected from disciplinary action. When an employee's conduct violates a criminal statute, however, reliance on the advice of an ethics official cannot ensure the employee will not be prosecuted, but may be used as a factor in making this determination.

c. Each new employee, contractor, and volunteer shall receive and sign for this Program Statement at the time of appointment. In addition, all employees, contractors, and volunteers shall receive and sign for any updated versions of this Program Statement when issued. The responsibility for ensuring that employees, contractors and volunteers receive and sign for this Program Statement shall be delegated in the following manner:

- # Human Resource Managers shall be responsible for employees;
- # Department heads who oversee a contractor shall be responsible for that contractor;
- # Employee Development Managers shall be responsible for volunteers.

All receipts are to be filed on the left side of the Official Personnel Folder.

d. Employee Development Managers shall ensure that supervisors and employees receive annual training on their responsibilities under these regulations and policies.

8. GENERAL POLICY. Employees of the Bureau are governed by the regulations published in 5 CFR Part 2635. While this Program Statement expounds on those regulations to clarify their application in the Bureau, it does not and cannot specify every incident which would violate the Standards of Conduct. In general, the Bureau expects its employees to conduct themselves in such a manner that their activities both on and off duty will not discredit themselves or the agency.



Employees shall:

a. Conduct themselves in a manner that creates and maintains respect for the Bureau of Prisons, the Department of Justice, and the U.S. Government.

b. Not abuse their position by giving any false impression of having arrest authority through use of Bureau credentials or otherwise. Bureau employees may only arrest in their official capacity in very limited circumstances as permitted by 18 U.S.C. § 3050 or other authority officially granted to them, such as U.S. Marshal deputation.

c. Avoid any action which might result in, or create the appearance of, adversely affecting the confidence of the public in the integrity of the U.S. Government.

d. Avoid conflicts of interest in matters that affect their financial interests.

e. Comply with post-employment restrictions.

f. Conform with procurement integrity regulations.

g. Uphold the ethical rules governing their professions including complying with applicable licensing authority rules, except when they conflict with federal law.

h. Follow special rules to avoid conflicts of interest when seeking employment outside the Bureau.

i. Immediately report to their CEOs, or other appropriate authorities, such as the Office of Internal Affairs or the Inspector General's Office, any violation or apparent violation of these standards.

Failure by employees to follow these regulations or this policy could result in appropriate disciplinary action, up to and including removal (see Attachment A).

9. PERSONAL CONDUCT. It is essential to the orderly running of any Bureau facility that employees conduct themselves professionally. The following are some types of behavior that cannot be tolerated in the Bureau.

a. Alcohol/Narcotics. The use of illegal drugs or narcotics or the abuse of any drug or narcotic is strictly prohibited at any time. Use of alcoholic beverages or being under the influence of alcohol while on duty or immediately prior to

reporting for duty, is prohibited. Employees shall be subject to disciplinary action if found to possess a .02 blood alcohol content level or greater while on duty.

b. Sexual Relationships/Contact With Inmates. Employees may not allow themselves to show partiality toward, or become emotionally, physically, sexually, or financially involved with inmates, former inmates, or the families of inmates or former inmates. Chaplains, psychologists, and psychiatrists may continue a previously established therapeutic relationship with a former inmate in accordance with their respective codes of professional conduct and responsibility.

(1) An employee may not engage in, or allow another person to engage in, sexual behavior with an inmate. Regardless of whether force is used, or threatened, there is never any such thing as "consensual" sex between staff and inmates.

(2) Title 18, U.S. Code Chapter 109A provides penalties of up to life imprisonment for sexual abuse of inmates where force is used or threatened. "Sexual contact" is defined as the intentional touching of "the genitalia, anus, groin, breast, inner thigh, or buttocks." Penetration is not required to support a conviction for sexual contact. All allegations of sexual abuse shall be thoroughly investigated and, when appropriate, referred to authorities for prosecution.

(3) Employees are subject to administrative action, up to and including removal, for any inappropriate contact or relationship with inmates, regardless of whether such contact constitutes a prosecutable crime. Physical contact is not required to subject an employee to sanctions for sexual misconduct.

c. Additional Conduct Issues. An employee may not offer or give to an inmate or a former inmate or any member of his or her family, or to any person known to be associated with an inmate or former inmate, any article, favor, or service, which is not authorized in the performance of the employee's duties. Neither shall an employee accept any gift, personal service, or favor from an inmate or former inmate, or from anyone known to be associated with or related to an inmate or former inmate. This prohibition includes becoming involved with families or associates of inmates. If such contact occurs, it must be reported using the procedure in subsection c(5).

(1) An employee may not show favoritism or give preferential treatment to one inmate, or a group of inmates, over another.

(2) An employee may not use brutality, physical violence, or intimidation toward inmates, or use any force beyond that which is reasonably necessary to subdue an inmate.

(3) An employee may not use physical violence, threats or intimidation toward fellow employees, family members of employees, or any visitor to a Bureau work site.

(4) An employee may not use profane, obscene, or otherwise abusive language when communicating with inmates, fellow employees, or others. Employees shall conduct themselves in a manner which will not be demeaning to inmates, fellow employees, or others.

(5) An employee who becomes involved in circumstances as described above (or any situation that might give the appearance of improper involvement with inmates or former inmates or the families of inmates or former inmates, including employees whose relatives are inmates or former inmates) must report the contact, in writing, to the CEO as soon as practicable. This includes, but is not limited to, telephone calls or written communications with such persons outside the normal scope of employment. The employee will then be instructed as to the appropriate course of action.

(6) Employees shall avoid situations which give rise to a conflict of interest or the appearance of a conflict of interest (see Section 6, Definitions).

(7) Employees shall not participate in conduct which would lead a reasonable person to question the employee's impartiality (see Section 20, Conflicts of Interest).

#### 10. RESPONSIVENESS

a. Inattention to duty in a correctional environment can result in escapes, assaults, and other incidents. Therefore, employees are required to remain fully alert and attentive during duty hours.

b. Because failure to respond to an emergency may jeopardize the security of the institution, as well as the lives of staff or inmates, it is mandatory that employees respond immediately and effectively to all emergency situations.

c. Employees are to obey the orders of their superiors at all times. In an emergency situation, carrying out the orders of those in command is imperative to ensure the security of the institution.

11. ILLEGAL ACTIVITIES. Illegal activities on the part of any employee, in addition to being unlawful, reflect on the integrity of the Bureau and betray the trust and confidence placed in it by the public. It is expected that employees shall obey, not only the letter of the law, but also the spirit of the law while engaged in personal or official activities. Should an employee be charged with, arrested for, or convicted of any felony or misdemeanor, that employee must immediately inform and provide a written report to the CEO. Traffic violations resulting in fines under \$150 shall be exempt from the reporting requirement.

12. INTRODUCTION OF CONTRABAND. The introduction of contraband into or upon the grounds of any federal penal or correctional institution, or taking or attempting to take therefrom, anything whatsoever without the Warden's knowledge and consent, is prohibited. Pursuant to 28 CFR § 500.1(h), contraband is defined as any material that can reasonably be expected to cause physical injury or adversely affect the security, safety, or good order of the institution. Contraband includes, but is not limited to, the following:

- P letters,
- P stamps,
- P money,
- P tools,
- P weapons,
- P paper,
- P food,
- P implements,
- P writing material,
- P messages,
- P instruments,
- P alcoholic beverages,
- P drugs,
- P photographic equipment,
- P computer software,
- P recording devices,
- P cellular phones, etc.

13. OFFICIAL INVESTIGATION

a. Every employee is required to report to management immediately any violation or attempted violation of any law or regulation and any act or omission by any person which could result in a breach of institution security.

b. It is not Bureau policy to routinely search employees or their property; however, when the CEO has a reasonable suspicion to suspect that an employee is in possession of contraband items

which, if introduced, could endanger the safety of staff or inmates or the security of the institution, the CEO may authorize the search of an employee or his or her personal property. Searches may also be authorized when the CEO has a reasonable suspicion that an employee is transporting contraband. Other circumstances may warrant an order by the CEO to randomly search employees or any person or their property when entering or leaving the institution.

c. During the course of an official investigation, employees are to cooperate fully by providing all pertinent information which they may have. Full cooperation requires truthfully responding to all questions and providing a signed affidavit, if requested. Any employee who fails to cooperate fully or who hinders an investigation is subject to disciplinary action, up to and including removal.

14. JUST DEBTS. Failure on the part of any employee, without good reason and in a proper and timely manner, to honor debts acknowledged by him or her to be valid or reduced to judgment by a court, or to adhere to satisfactory arrangements for the settlement thereof, may be cause for disciplinary action. Depending on the circumstances, an employee who receives a legally valid garnishment order may be subject to disciplinary action.

15. CONFIDENTIALITY. Employees of the Bureau have access to official information ranging from personal data concerning staff and inmates to information involving security. Because of the varying degrees of sensitivity of such information, it may be disclosed or released only as required in the performance of an employee's duties or upon specific authorization from someone with the authority to release official information. The only persons authorized to release official information are:

- # in the Central Office, the Director, or designee;
- # in a Regional Office, the Regional Director, or designee;
- # in other locations, the CEO, or designee.

The above shall not be construed as a reason to deny authorized persons access to official records and files. The Bureau has an obligation to supply official information in response to requests from organizations or individuals upon determining that such individuals are properly identified and acting in an official capacity. To ensure the proper use of official information, the following rules of conduct are established:

a. Employees shall verify the identification and authority of individuals requesting access to information prior to giving or discussing records, personnel files, or other official information.

b. Employees may not deny authorized persons access to official information.

c. Employees may not use, or release for use, official information for private purposes unless that information is available to the general public.

d. Employees may not remove information from files or make copies of records or documents, except in accordance with established procedures or upon proper authorization.

e. Employees may not make statements or release official information which could breach the security of the institution or unduly endanger any person.

f. Former employees may be granted access only to information available to the general public and may have no greater standing than the general public, irrespective of their past employment and any associations developed in the course of such employment.

16. GOVERNMENT PROPERTY. Government property is to be used for authorized purposes only.

a. Authorized Purposes. Authorized purposes includes personal use of Government office equipment such as computers, printers, fax machines, telephones, copiers, and calculators. Use may not involve more than merely negligible cost to the Government.

b. Negligible Cost. Negligible cost to the Government includes the cost of electricity, ink, and ordinary wear and tear. Employees shall provide their own paper.

c. Personal Use. Personal use of Government property may take place before or after official working hours or during non-paid meal breaks, provided such use does not adversely affect the performance of official duties by the employee or the Bureau, with the following exception:

Telephones. Employees may place a personal call on a Government telephone during official working hours if the call:

- # does not adversely affect the performance of official duties by the employee or the Bureau;
- # is of reasonable duration and frequency;

- # could not reasonably have been made at another time;  
and
- # is within the employee's local commuting area.

d. Fitness Equipment. Employees may use Government-owned fitness equipment during breaks if such equipment is intended exclusively for employee use.

e. Existing Prohibitions. This rule does not override already existing prohibitions on use of Government property, including those rules established by a supervisor for business reasons.

17. CREDENTIALS. Bureau of Prisons credentials, identification cards, Government drivers licenses, or badges may not be used to coerce, intimidate, or deceive others or to obtain any privilege or article not otherwise authorized in the performance of official duties.

a. Employees may not obtain or use identification badges issued by other sources which give the appearance of being an official Bureau or law enforcement credential.

b. Employees may not use credentials or otherwise represent themselves as Department of Justice personnel to obtain a gun permit to be used in their unofficial capacity.

c. Employees may use credentials to prove Government employment for purposes of permissible discounts offered to a broad class of Government employees.

#### 18. OUTSIDE EMPLOYMENT

a. There are limitations as to the type of outside employment an employee may obtain. Employees may not:

- # engage in any outside employment or activity that involves criminal matters, although the Director reserves the authority to approve uncompensated correctional work on a case-by-case basis;

- # engage in any outside employment which would require the use of a firearm, except for military reserve duty; or

- # testify as an expert witness in any legal proceeding, with or without compensation, in which the Bureau does not have an interest.

b. Any employee who wishes to engage in employment outside the Bureau must obtain prior written approval for each activity using BP-S543.033 or BP-S166.033. Employment includes compensated speaking, writing, and teaching. Outside employment, including self-employment, must not result in, or create the appearance of, a conflict of interest with official duties or tend to impair the employee's mental or physical capacity to perform official duties and responsibilities. Written approval must be resubmitted when there is a change of duty station.

c. Any employee who wishes to serve as an officer or director of any organization, whether it is compensated or uncompensated, must also complete an outside employment request form. Employees who perform voluntary service involving church, employee's club, credit union, or union activities, which do not conflict with their official duties or with the mission of the Federal Bureau of Prisons, will be exempted from the requirement to request approval for these activities.

d. An employee may not have a direct or indirect financial interest that could be affected by the performance or nonperformance of his or her Government duties and responsibilities.

e. Certain professional employees are prohibited from engaging in the private practice of their professions. Exceptions may be granted, however, in accordance with subsection (1). Professional employees who wish to engage in outside employment **not** within their profession should follow instructions provided in subsection (2) and should complete BP-S166.033. For the purpose of this subsection, teaching, writing, and speaking are not considered practicing within one's profession.

(1) Employment in Certain Professions. Persons currently employed by the Bureau in the professions listed below who would like to work **within** that profession during off-duty hours must have the approval of his or her immediate supervisor, CEO, Regional Director, and the Director:

- # Architect
- # Attorney
- # Chaplain
- # Doctor
- # Psychologist

The Bureau Ethics Officer shall review each request to ensure that there are no conflicts of interest.



Attorneys who seek to practice law outside of the Bureau must also refer to Section 19, Rules for Attorneys.

The form entitled "Request for Approval for Outside Employment Within One's Profession" (BP-S543.033) must be completed with all appropriate signatures affixed before the employee may engage in the outside practice of his or her profession. The form requires such basic information as the name of the employee, the employee's job title, grade, institution and a brief description of the outside employment contemplated. The brief description, at a minimum, should include:

- a summary of the duties to be performed,
- the work address of the employer,
- the hours of employment, and
- any information deemed relevant to support the request.

Failure to provide the required information could result in delays in processing or a denial of the request.

(2) Other Outside Employment. Any other employee who wishes to engage in outside employment must obtain prior approval from his or her supervisor and CEO by initiating a Request for Approval for Outside Employment. Forms may be found on BOPDOCS.

(3) Change of Outside Employment. Any approval granted for outside employment is specific to the particular position referenced in the application and approval. Any employee who wishes to change outside employment, (e.g., to work for a different company, accept a different position with the same company, etc.), must submit a new request form, and receive approval before doing so.

(4) One-Time Review of Outside Employment. All employees who have received approval for outside employment prior to the effective date of this Program Statement must submit a new request form by December 31, 1998. Request for Outside Employment forms may be found on BOPDOCS. This requirement applies even if the employee is still in the same outside position for which approval had previously been granted. The purpose of this one-time review is to ensure compliance with the Supplemental Standards Of Ethical Conduct For Employees Of The Department Of Justice (5 CFR Part 3801).

## 19. RULES FOR ATTORNEYS

a. Approval of Exceptions. Attorneys for the Bureau may not practice law on behalf of any other person or entity, for compensation, without the written approval of the Deputy Attorney General. Bureau attorneys, however, may perform uncompensated legal practice outside the Bureau if:

- # the work does not violate 18 U.S.C. §§ 203 and 205,
- # the General Counsel has approved the request, and
- # the work does not involve criminal matters.

b. Confidentiality. Only under limited circumstances shall the attorney/client privilege of confidentiality apply to communications with a Bureau employee.

### c. Successive Government and Private Employment

(1) A former Bureau attorney may not represent a private client in connection with a matter in which the attorney participated personally and substantially as a public officer. In such a case, the attorney's firm may continue representation in the matter only if the attorney is screened from any participation in the matter in which he or she participated in personally and is apportioned no part of the fee therefrom.

(2) A Bureau attorney who came from private practice may not participate in a matter before the Bureau in which the attorney participated personally and substantially while in private practice. Like any Bureau employee, an attorney may not negotiate for private employment with any party involved in a Bureau matter in which the attorney is participating in personally and substantially.

d. Other Duties. In addition to the ethical rules attorneys must follow, the duties of a Bureau attorney are further defined by federal regulations and Bureau policy.

20. CONFLICTS OF INTEREST. Bureau employees should avoid situations where their official actions affect or appear to affect their private interests, financial or non-financial.

a. Prohibitions. Employees are prohibited from taking official action on matters that affect the financial interests of:

- # The employee, a spouse, minor child, or a general partner of an employee;

- # An organization where the employee is an officer, director, trustee, partner or employee; or
- # An organization the employee is negotiating with for future employment.

b. Waivers

(1) The Director may grant an individual waiver if the interest is found not to be so substantial as to affect the employee's service to the Bureau.

(2) Employee's holdings in mutual funds are exempt if the employee's share is no more than one percent of the total assets of the fund.

(3) An employee with a conflict of interest may ask to have himself or herself recused from the matter, sell the asset, or resign.

(4) An employee must seek written authorization prior to participating in a matter which could lead a reasonable person to question the employee's impartiality, even if there is not a statutory conflict of interest.

(5) Procurement officials must refer to Section 23, Procurement Integrity.

21. SEEKING OTHER EMPLOYMENT. Any Bureau employee who wishes to seek employment with persons who otherwise would be affected by the performance or nonperformance of the employee's official duties are required to disqualify themselves from participation in any particular matter that will have a direct and predictable effect on the financial interests of the person with whom he or she is negotiating.

When an employee is not actually negotiating for employment, but lacks impartiality in dealing with a prospective employer, the employee should disqualify himself or herself. A Bureau employee who is aware of, or should be aware of, the need to disqualify himself or herself from participation in a particular matter must contact his or her supervisor and request, in writing, to be removed from the matter.

22. POST-EMPLOYMENT. The Office of Government Ethics, in accordance with statutes, has issued post-employment restrictions for federal employees who leave federal service. There is a general restriction on the representation of parties in matters related to their federal employment. This regulation is not designed to bar an individual from accepting employment with any

private or public employer after his or her service at the Bureau, but certain acts that are detrimental to public confidence in Government are prohibited.

a. Lifetime Prohibition. All former Bureau employees are prohibited from representing another party before the Government on a particular matter involving specific parties in which they participated personally and substantially while working for the Government. This prohibition does not apply to an appearance or communication involving purely social contacts, a request for publicly available documents, or a request for purely factual information or the supplying of such information. This restriction is found at 18 U.S.C. § 207(a)(1).

b. Two-Year Prohibition. After leaving the Bureau, a former employee is restricted from acting as a representative on a particular matter for which the employee had official responsibility, rather than personal participation. The restriction applies if the former employee knew, or reasonably should have known, that the matter was pending under his or her official responsibility during his or her last year of Government service. This restriction is found at 18 U.S.C. § 207(a)(2).

c. One-Year Prohibition. Former senior level employees are restricted from lobbying the Bureau, on behalf of another person on a matter in which that person seeks official action, for one year. This ban only applies to Executive Schedule or SES level 5 and 6 employees. The purpose of this restriction is to allow for a period of adjustment for incoming senior employees of an agency and to diminish any appearance that Government decisions might be affected by the improper influence of a former senior employee. This restriction is found at 18 U.S.C. § 207(c).

23. PROCUREMENT INTEGRITY. During the conduct of a procurement, a procurement official is prohibited from knowingly, directly or indirectly, soliciting or accepting any promise of future employment or business from any officer, employee, representative, agent, or consultant of a competing contractor. This prohibition includes engaging in any discussion of future employment or business opportunity. This restriction is found in the Procurement Integrity Act, 41 U.S.C. § 423. Any procurement official who participates personally and substantially in a procurement in excess of \$100,000 (the simplified acquisition threshold) and who is contacted concerning employment by a person who is a bidder or offerer in such procurement must promptly report the contact in writing both to the employee's supervisor as well as to the Ethics Officer.

a. Recusal To Discuss Employment. In certain instances, a procurement official may obtain permission to withdraw from further participation in a procurement to discuss future employment with a competing contractor. An eligible procurement official may, in accordance with specific procedures in the regulations, request authorization to be recused from participation in the procurement. A procurement official is not eligible for recusal if, during the period beginning with the issuance of a procurement solicitation and ending with the award of a contract, he or she has participated personally and substantially in the evaluation of bids or proposals, the selection of sources, or the conduct of negotiations.

An individual may not commence discussions with a competing contractor until he or she has received written approval of the recusal request from his or her supervisor. Rejection of a recusal request is not an adverse personnel action.

b. Post-Employment Restrictions For Procurement Officials. The Procurement Integrity Act places restrictions on employees involved in procurement who leave federal service. A former procurement official cannot, for one year after his or her last personal and substantial involvement in a procurement in excess of \$10,000,000 accept compensation from such contractor as an employee, officer, director, or consultant. This does not prohibit former procurement officials from accepting compensation from any division or affiliate of a contractor that does not produce the same or similar products or services for which the employee contracted while a government employee.

/s/

Kathleen Hawk Sawyer  
Director

Standard Schedule of Disciplinary Offenses and Penalties

1. This table is intended to be used as a guide in determining appropriate discipline to impose according to the type of offense committed. The offenses listed are not inclusive of all offenses.
2. Ordinarily, penalties imposed should be within the range of penalties provided for an offense. In aggravated cases, a penalty outside the range of penalties may be imposed. For example, supervisors, because of their responsibility to demonstrate exemplary behavior, may be subject to greater penalty than is provided in the range of penalties. When a more severe penalty than provided for in the range of penalties is proposed, the notice of proposed action must provide a justification.
3. The deciding official will consider relevant circumstances, including mitigating and aggravating factors, when determining the appropriate penalty. The range of penalties provided for most offenses is intentionally broad, ranging from official reprimand to removal. While the principles of progressive discipline will normally be applied, it is understood that there are offenses so egregious as to warrant severe sanctions for the first offense up to and including removal. This is especially true in cases where there is no indication that the employee would be corrected by a lesser penalty, or if the offense is of such a nature that reoccurrence of the conduct could jeopardize security or bring disrepute on the Bureau of Prisons. For example, if an employee failed to respond to an emergency, even if that emergency turned out to be a false alarm, removal would be appropriate if the deciding official was not convinced that the employee would respond promptly to any future emergency.
4. Where appropriate, consideration may be given to a demotion or other action in lieu of removal.
5. Suspension penalties on this schedule refer to calendar days. Except for emergency suspensions and indefinite suspensions, all disciplinary suspensions are to begin on the first workday of the employee's next regularly scheduled work week.
6. The reckoning period is defined as that period of time following the date management becomes aware of the offense during which that offense can be used to determine the sanction for a subsequent offense.

7. Offenses falling within the reckoning period, even though unrelated, should be considered when determining the appropriate action.

8. Where the deciding official substitutes a letter of reprimand in lieu of a greater proposed sanction, the letter of reprimand itself is to be separate from the decision letter and is not to refer to the greater sanction proposed.